

HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b))

Description of the case.

W.P. No. 21 of 2004 (M/S)

Bhajan Singh

Vs.

District Magistrate, Udham Singh

Nagar & others

Approved for reporting.

~~Not approved for reporting~~

Date of decision 16.02.2004.

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 21 of 2004 (MS)

Bhajan Singh

Versus

..... Petitioner

District Magistrate, Udham Singh Nagar
& others

..... Respondents

Sri S.K. Mandal, Advocate for the petitioner
Sri K.K. Shah, Advocate for the respondents.

Dated: 16.2.2004

Hon'ble Rajesh Tandon J.

Heard the learned counsel for the parties.

By the present writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of mandamus directing the respondents not to proceed with the recovery proceedings against the petitioners.

Briefly stated the facts giving rise to the present writ petition are that petitioner had taken a loan of Rs.2,00,000/- for development of dairy on 4.4.2001 from respondent no.3. The petitioner has submitted that due to some ailment of buffaloes the business of the petitioner has been badly affected and he could not pay instalments of the loan amount to the Bank in time. It has been submitted by the

petitioner that the respondent no.3 has issued a certificate of recovery on 16.01.2004 for Rs.3,05,535/- and sent it to the Collector, Udham Singh Nagar.

According to the petitioner no account has been furnished by the Bank so as to enable him to come to the conclusion that the citation made by the respondent Bank is correct. Further according to him calculation of interest is wholly incorrect and no compound interest can be charged. In the case of *Central Bank of India vs. Ravindra and others*, AIR 2001 SC 3095 the Apex Court has observed:

“Statement of accounts supplied by banks to borrowers many a times do not contain particulars or details of debit entries and when written in hand are worse than medical prescriptions putting to test the eyes and wits of the borrowers. Instances of unscrupulous, unfair and unhealthy dealings can be multiplied though they cannot be generalized.”

Therefore, I am of the opinion that the Bank authorities will furnish the account to the petitioner on production of certified copy of this order.

So far as payment of amount is concerned the petitioner is not challenging the recovery proceedings. However, the said plea is also not available. The petitioner has prayed that he being a small farmer if the amount is recovered through easy instalments it will serve the purpose of the Bank and will also give relief to the petitioner. In my

opinion in the interest of justice, if the petitioner pays the amount in eight equal quarterly instalments, the interest of the Bank shall be fully protected.

The entire outstanding loan amount, therefore, shall be recovered in eight quarterly instalments. The first instalment will be paid in one month i.e. by 16.3.2004 thereafter remaining seven instalments will be paid after each three months. The amount of interest will be paid in the last instalment along with recovery charges. In case of default of any instalment, liberty is given to the respondents to recover the amount.

With the above observations, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon J.)

16.2.2004
*Dhyani